

Memorandum of Agreement
New Exhibit E, Body Worn Camera Policy

This Memorandum of Understanding ("MOA") is by and between the City of Springfield and its Police Department ("City") and the Springfield Police Association ("SPA").

Recitals

- A. The City and SPA are parties to a collective bargaining agreement effective July 1, 2020 through June 30, 2023 ("CBA").
- B. Article 17.9 of the CBA states, "If the City requires any employees to wear body cameras during the term of this agreement, the rules and policies stated in Exhibit E shall govern the use of body cameras."
- C. In turn, Exhibit E states at Section 2(F): "Body-worn camera systems are a developing technology, changes in the law will create mandatory changes in this policy. Modifications in body-worn camera policy will be negotiated between the City and the Springfield Police Association (SPA) in good faith."
- D. The City and SPA have engaged in good faith negotiations over changes to Exhibit E, resulting in the City and SPA agreeing to a new body camera policy titled "General Order 36.1.1," which is attached to this MOA and incorporated by reference.

Agreement

The City and SPA agree as follows:

- 1. Current Exhibit E of the CBA is rescinded and replaced with the attached revised body camera policy titled "General Order 36.1.1."
- 2. As set forth in the revised body camera policy, "Body-worn camera systems are a developing technology, changes in the law will create mandatory changes in this policy. Modifications in body-worn camera policy will be negotiated between the City and the Springfield Police Association (SPA) in good faith."

DATED: JAN. 25, 2021



Richard Lewis
Chief of Police



Robert Conrad
SPA President

GENERAL ORDER 36.1.1

Body Worn Cameras

GENERAL ORDER CROSS-REFERENCE: ICV 36.1.2

SUMMARY

Body-worn cameras are reported to be an effective law enforcement tool that reduces officer/citizen confrontations and enhances the understanding of interactions between officers and the public. They are also beneficial in resolving citizen complaints as they typically show the officer acted in an appropriate and professional manner.

Body-worn cameras allow for additional documentation of arrests and critical incidents, plus enhancing the accuracy of officer reports and testimony. Cameras are also useful in documenting crime scenes and crash scenes or other events that include the collection, confiscation, and documentation of evidence.

The Department recognizes that a video camera can only capture images in its direct field of view and with a "2D" not "3D" depth of perception. Therefore they cannot capture the full story, nor do they show the entire scene, environmental conditions, surrounding circumstances, and safety concerns that officers are constantly assessing. The Department also recognizes that some body-worn cameras capture images in lower light conditions than the human eye can and these images will not be visible to the officer(s). The use of body-worn cameras does not reduce the requirements to provide thorough written documentation of an incident. Persons reviewing recordings derived from body-worn cameras must also be cautious before reaching conclusions about what the recordings show. Such recordings may not represent a complete record of the involved officer's perspective or perception of the involved incident.

The body-worn cameras will be utilized to (1) collect evidence for prosecution of offenses, (2) record contacts with the public in order to secure additional unbiased evidence in connection with investigations, (3) under specified situations (addressed herein) allow for supervisory review to ensure Department policies and procedures are followed, and (4) capture events and actions that would be helpful in future trainings.

Body-worn camera systems are a developing technology, changes in the law will create mandatory changes in this policy. Modifications in body-worn camera policy will be negotiated between the City and the Springfield Police Association (SPA) in good faith.

DEFINITIONS

Body-worn cameras (BWC) - camera systems designed to be worn by police officers to capture digital evidence.

Metadata - includes any digital identifiers that are captured as part of the actual recording (e.g., date/time, GPS coordinates, incident category, etc.), plus data entered by the officer.

POLICY

This policy is intended to provide direction on when and how to use body-worn cameras and related video evidence. Use of body-worn cameras for any purpose other than in accordance with this policy is prohibited without the written approval of the Chief of Police or authorized designee.

This policy does not apply to lawful surreptitious audio/video recording interception of communications for authorized investigative purposes or to in-car mobile audio/video recordings. See G.O.36.1.2 In Car Video.

The Department and officers will use body-worn cameras consistent with state and federal law and department policy.

OFFICER RESPONSIBILITIES

1. BWCs shall be worn by all officers and supervisors working a uniformed assignment in patrol operations. (Patrol operations include the Traffic Unit, K9 Unit and School Resource Officers (SROs).
1. Other uniformed personnel not assigned to the patrol division or SRO program may wear a BWC if approved by the Chief of Police or authorized designee. Any sworn member, who does not routinely wear a BWC, will check with the on-duty supervisor for availability of a BWC. Incidents such as protests, dignitary protection or traffic control at special events may fall under this scenario.
2. Prior to using a body-worn camera, officers shall receive department-approved training on the proper operation, care and the department's policy with respect to the use of the body-worn camera. Training shall be provided as necessary to ensure the continued effective use of the equipment, proper calibration and performance, and to incorporate changes, updates, or other revisions in policies or equipment.

3. Officers shall wear body-worn cameras on the torso and in a position designed to produce an effective recording. Motorcycle officers may wear the department approved alternative style body-worn camera equipment above the torso or as otherwise directed.
4. Officers shall only use BWC equipment issued by the department. Personnel shall not remove, dismantle or tamper with any hardware/software component or part of the BWC. Officers may not use privately owned body worn cameras while on duty.
5. In the event that a body-worn camera is lost, upon discovery, the officer shall immediately notify his/her supervisor.
6. Officers shall only use body-worn cameras in conjunction with official department duties.
7. Equipment inspection and function check will be addressed in training and outlined in the BWC procedure manual.

SUPERVISOR & POLICE DIGITAL EVIDENCE TECHNICIAN RESPONSIBILITIES

Supervisors shall ensure officers are equipped with BWC devices prior to taking calls for service.

In the event an officer fails to properly tag and categorize a video, the Digital Evidence Technician shall compare the video meta-data to CAD data to determine the appropriate categorization with regards to State mandated retention requirements.

In the event of a technical issue or malfunctioning of the BWC, officers shall contact the Digital Evidence Technician so the Digital Evidence Technician can, inspect the equipment, view the relevant footage, and troubleshoot or resolve the problem.

The responsibilities of the Digital Evidence Technician will pertain to any designee acting in the absence of the Digital Evidence Technician. Any designee must be appointed by Command Staff or the Records Manager.

I ACTIVATION

Oregon State Law requires that body-worn cameras be set to record when the officer wearing the camera develops reasonable suspicion or probable cause to believe that a crime or violation has occurred, is occurring or will occur, and the officer begins to make contact with person(s) suspected of committing the offense. The officers will not cease recording until the termination of the officer's participation in the contact.

Officers should activate the recorder any time they believe it would be appropriate or valuable to record an incident.

The body-worn camera shall be activated in any of the following situations.

1. All enforcement and investigative contacts including stops and field interview (FI) situations.
2. Traffic stops including, but not limited to, traffic violations, stranded motorist assistance, and all crime interdiction stops.
3. Any contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.
4. Body-worn cameras are not required to be activated when taking routine reports from victims or witnesses when the suspect is not on scene. Officers have the discretion to turn the camera on if they believe the contact with the victim/witness is appropriate.
5. Other circumstances the officer believes video recording may add value or clarity to an incident.
6. Transport of a person not in custody.

At NO time is an officer expected to jeopardize their safety or impair a criminal investigation in order to activate the body-worn camera. However, the camera should be activated in situations described above as soon as practicable.

If an officer fails or is unable to activate a body worn camera upon initial contact, the officer shall verbally record the reason on the BWC recording once the BWC recording is activated and the officer shall document the reason(s) in their report.

II NOTIFICATION OF RECORDINGS

At the beginning of an interaction (or as soon as safe and practicable), officers shall notify all parties to the conversation that a recording is being made unless the situation is exempt from notification pursuant to a court order under ORS 133.726 (prostitution offenses, felonies when exigency makes obtaining a warrant unreasonable, certain felony drug offenses) or the limited exception in ORS 165.540 (felonies that endanger human life). This notification should be included in the recording when possible. Exceptions can be made when the announcement may impair a criminal investigation or jeopardize officer safety or the safety of any other person.

III PRIVACY CONSIDERATIONS

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criteria. Recording should resume when the privacy is no longer at issue unless the circumstances no longer fit the criteria for recording. Officers have no obligation to stop recording in response to a citizen request if the recording is pursuant to an investigation, arrest, lawful search, or the circumstances clearly dictate that continued recording is necessary. Examples and situations include, but are not limited to:

1. A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational
2. Recordings that would jeopardize safety planning for victims
3. Recordings that would disclose private security measures of residences or businesses
4. Recordings that would interfere with the ability to conduct an investigation due to sensitive circumstances (e.g., nudity, presence of child pornography)

Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer an issue unless the circumstances no longer fit the criteria for recording. The request to turn the body-worn camera off should be recorded, as well as the officer's response, and included in the report narrative. If no report is generated, the officer shall ensure documentation is made in the CAD incident and such documentation shall include the reason for deactivation.

IV JUVENILES

It is recognized that recordings of juvenile offenders will occur by the use of body-worn cameras when officers are responding to calls for service or during the course of an investigation. Recordings of juveniles captured with the body-worn cameras will be protected the same as still photographs of juveniles.

V
DEACTIVATION or FAIL TO RECORD

Officers shall continue recording until the incident is complete.

Deactivation

If the recording is discontinued before the incident is complete, the officer will verbally record their reason for deactivating the device. Additionally, the officer will document the reason for the deactivation in their report narrative, if a report is written for the incident. If no report is generated, the officer shall ensure documentation is made in the CAD incident and such documentation shall include the reason for deactivation.

For purposes of this policy, an incident is considered complete when an objectively reasonable officer would consider the incident to have reached a logical ending, up to and including the transfer of an arrestee into the custody of another agency. For example, the point at which a jail deputy takes custody of the arrestee.

The camera must remain on continuously until:

1. The officer's direct participation in the incident is complete or there is a significant period of inactivity or other breaks from direct participation in the incident.
2. All persons stopped have been released.
3. An arrestee has been transported to a detention facility. The BWC shall remain activated at all times while the officer is in the presence of the arrestee and until the arrestee is secured in the holding cell or processing room, or until custody of the arrestee has been transferred to SMJ or LCJ personnel in the booking area of the jail and the officer no longer has contact with the arrestee. Officers shall comply with LCJ body-cam policies when booking an arrestee into the Lane County Jail.
4. A supervisor has authorized (on camera) that recording may cease.

Fail to Record

If an officer fails to activate a body-worn camera or fails to record the entire contact the officer shall document the reason(s) in their report. If no report is generated, the officer shall ensure documentation is made in the CAD incident and such documentation shall include the reason for deactivation.

VI RECORDING RESTRICTIONS

The purpose of a body-worn camera is to obtain evidence and information relevant to the incident.

Body-worn cameras should not be used to record:

1. Interviews with child abuse victims.
2. Interviews with sexual assault victims.
3. In any location where individuals have a reasonable expectation of privacy (such as a restroom, locker rooms, break room, fitness room, or in other similar areas in the Justice Center), or during roll call training, briefings and/or incident debriefings, in-service training, and/or departmental meetings.
4. Unless responding to a call in which the suspect is thought to be present, Officers should not normally record patients during medical, health care provider, or psychological evaluation by a clinician or similar health care facility or during treatment, unless necessitated by investigatory or safety concerns. The body-worn camera should remain activated inside a hospital/medical treatment setting if the officer is conducting his/her investigation and the individual being recorded is being interviewed or otherwise presenting evidence relevant to the investigation (including behavior of the suspect that is germane to the state of mind and criminal culpability of the suspect).

Employees shall be aware of patients' rights to privacy when in hospital settings. When recording in hospitals and other medical facilities, officers should be careful to avoid recording persons other than the suspect or witnesses that are deemed relevant to the matter being investigated.

5. Communications made in a psychiatric facility, unless otherwise permissible under this policy.
6. Encounters with undercover officers or confidential informants.
7. When an officer is engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g., spouse, attorney, police peer counselor, labor representative).
8. Clergy, health care provider, etc.
9. Casual communications with other police personnel.

10. When an officer is on break or is otherwise engaged in personal activities.
11. Places of worship and/or religious ceremonies.
12. Community policing activities.
13. Routine, or strategic tactical planning communications with other police personnel, or other communications which do not fall within the recording guidelines outlined within this policy.
14. Officers shall be careful to avoid recording persons other than the suspect or witnesses that are deemed relevant to the matter being investigated by the officer.

VII EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

VIII DOWNLOADING AND TAGGING VIDEO

Officers shall be responsible for downloading recorded data from their body-worn camera at the end of their shift unless a supervisor approves the delay of downloading until the next work shift. In situations involving officer involved shootings, or other incidents involving the officer that result in a person's serious bodily harm or death, the supervisor will immediately take physical custody of the camera and be responsible for downloading the data.

Each file shall be categorized, tagged, and contain information related to the date and time of incident, and case number, citation number or CAD incident number if video is tagged as something other than 'non-event'.

Members should flag any incident in which all or some of the recorded data should not be released due to its sensitive nature (e.g., sensitive intelligence data, revealing identity of confidential informant, a victim advocate is recorded, sensitive victim cases) or of any recorded incident which might be valuable for training purposes.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

IX REPORTING REQUIREMENTS

Officers are still required to provide thorough written documentation of an incident and should document the existence of a recording in any report or other official record of the contact (i.e. CAD incident if no report is written), including any instance where the recorder malfunctioned or the member deactivated the recording.

Refer to section V. Deactivation or Failure to Report for additional reporting requirements.

X REVIEW AND USE OF RECORDINGS

Officers are allowed to review the recordings from their body-worn cameras at any time. This is to help ensure the accuracy and consistency of officers' reports. Officers are encouraged to review recordings prior to preparing reports. Involved officers are permitted to view video captured by fellow officers in order to assist in preparation of police reports related to specific incidents. Upon approval by a supervisor, or system administrator, any officer of the Department who is participating in an official investigation whether administrative or criminal may view recorded files.

Prior to testifying in a court case where recorded data will be offered as evidence, officers are encouraged to review the recording.

Body-worn cameras may only be used consistent with department training and equipment specifications.

Employees are prohibited from using body-worn cameras and the recordings for personal use. Employees are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity. Employees shall not duplicate or distribute recordings, except for an authorized legitimate department business purposes. All such recordings shall be retained by the Department.

Officers shall not edit, alter, erase, duplicate, copy, share (other than individuals with a right to know), or otherwise distribute in any manner body-worn camera recordings, images, and information. Requests to duplicate, copy, or share information for any of these will be made through the Police Digital Evidence Technician, Chief of Police, or the authorized designee.

1. Officers will not take "screen shots" or make any reproduction of any video or audio content unless approved by the Chief of Police or authorized designee.

2. Viewing of video shall be limited only to individuals on a right to know basis and only for the purpose of processing a case or when related to a department matter.

Recordings shall not be used by an employee for the purpose of embarrassment, intimidation or ridicule.

XI

ADMINISTRATIVE INVESTIGATIONS

Supervisors and Professional Standards Personnel are authorized to review relevant recordings under the following circumstances:

1. After receiving a complaint from the public or another officer regarding general misconduct or policy violation(s). The supervisor or Professional Standards Personnel shall limit such review to the incident specified within the complaint. Any additional review by the supervisor or Professional Standards Personnel shall be limited in scope to the context of the original complaint and shall occur only to the extent warranted under the original complaint. Inadvertent discovery of other allegations during this review shall require the supervisor to articulate the purpose of expanding the scope.
2. After receiving a report from the public or another officer regarding meritorious conduct or actions by an officer.
3. If there is an allegation(s) of criminal misconduct by an officer(s), or if upon review of recordings pursuant to Section XIII, 1-7 of this policy, a criminal event is observed, the supervisor or Professional Standards Personnel may conduct an investigation and review additional recordings.
4. If an officer(s) is involved in what would be considered a "Critical Incident" or of a serious nature to the public interest, the supervisor or Professional Standards Personnel may review the recordings to evaluate the situation.
5. If an officer(s) is involved in or witnesses a use of force incident which includes the use of focused blows, lateral vascular neck restraints, hobbles, tasers, chemical agents, impact weapons, firearms or any force resulting in injury or complaint of injury.
6. When an officer has been previously disciplined and/or placed on a "work plan" and employee notice of review is a component of the specified work plan. It is understood the supervisor or Professional Standards Personnel will limit the scope of their review to conduct of topics relevant to the discipline and/or "work plan".
7. Any probationary employee may have their recordings reviewed by a supervisor or the employee's Field Training Officer to assist in the evaluation of the said employee.

8. If the supervisor or Professional Standards Personnel believes a specific incident recording(s) may be a valuable training tool for the rest of the department.
9. Supervisors and Professional Standards Personnel shall not review recordings in a random or other manner not permitted within this policy.

XII TRAINING

Recordings from body-worn cameras may be shown for training purposes with the authorization from a Command Staff member.

Officers shall be provided with written notice if recordings intended for use for training purposes were either made by them or captured their image or voice. If an involved employee/ individual objects to the release of the video, a determination of whether or not to release the video will be made by the Chief of Police or authorized designee.

XIII OTHER REQUESTS

Recorded files may also be viewed by:

1. Court personnel, prosecutors and city attorneys are authorized to access and manage recordings pursuant to their official duties.
2. Media personnel may review recordings with the permission of the Chief of Police or authorized designee.
3. Public records requests will conform to state public records statutes with consideration given to person's privacy and sense of dignity.

Unless prohibited by law, audio and video recordings from body-worn cameras shall be provided upon request to officers or their union representatives during any internal investigation in accordance with the collective bargaining agreement and/or as allowed by law.

Prior to providing a formal statement in an administrative investigation, the officer shall have the option to review any related body-worn camera recordings in the presence of counsel and/or labor representative.

In addition, such review will not be allowed if the Chief of Police determines that such review would interfere with an ongoing criminal investigation.

All recordings shall be reviewed by the Police Digital Evidence Technician and/or Custodian of Records prior to public release. Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

The Police Digital Evidence Technician and/or Custodian of Records will maintain an electronic record of all BWC footage access.

Except as set forth in this policy, or as allowed by state or federal law, non-department personnel shall not be allowed to review the recordings without consent of the Chief of Police or the authorized designee.

XIV USE OF FORCE

Prior to providing a formal statement about the use of force or disciplinary investigation, the officer shall have the option to review any related body-worn camera recordings in the presence of counsel and/or labor representative.

XV CRITICAL INCIDENTS

Following an officer-involved shooting, use of deadly force, or other critical incident, and when safe and practical to do so:

1. Body-worn cameras will be collected by the on-scene sergeant or designee and will be immediately powered off.
2. Sergeants or Command Staff may review the BWC video to obtain identifying suspect information or other pertinent information necessary to provide a framework for the investigation such as Suspect(s) location & description; Injuries to officer or suspect; Potential witnesses; Location of evidence; Direction & estimated number of rounds fired; Overall scope of the scene.
3. Involved officers' cameras will be turned over to a supervisor for processing. The Police Digital Evidence Technician will work with the IDFIT (Inter-Agency Deadly Force Investigations Team) representative to provide the video footage.

4. Any body-worn camera videos that contain video of a critical incident or officer-involved shooting shall be immediately categorized as "restricted" by the System Administrator once the video is downloaded.
5. Officers involved in a shooting will have the opportunity to review any SPD body worn camera video that captures their actions, images, or words before giving a formal statement to the IDFIT. IDFIT and Springfield Police Association will coordinate an appropriate time for involved officers to view the video.

Officers participating in a SWAT operation shall activate their BWC while conducting the following, but not limited to, activities:

1. Actively covering a target or person.
2. Making an approach to a target or person.
3. Clearing property, to include open spaces, buildings, outbuildings, or other objects needing to be manually cleared.
4. The BWC shall record continuously during these activities, subject to the exceptions outlined in sub-section below.

Exceptions to the continuous recording requirements include deactivation of the BWC during SWAT operations such as:

1. Conversing with a lead worker or supervisor or other officer regarding tactics, plans, or trade secrets.
2. Due to the nature of SWAT operations and the limited battery life of the BWC, SWAT supervisors may approve deactivation or delayed activation of the BWC in order to maximize the video capture and battery life of the unit.

XVI HANDLING OF DIGITAL MEDIA EVIDENCE

Body-worn camera equipment and all data, images, video and metadata captured and recorded are property of the Department and cannot be used by any vendor for any purpose inconsistent with the above mentioned directives. Recordings will be stored in a manner recommended by the approved vendor and agreed upon by the Springfield IT Department in accordance with all applicable laws and policies. The Chief of Police will appoint a System Administrator who will manage the storage, retention and distribution of all recordings.

Body-worn camera equipment and all data, images, video and metadata captured and recorded are the property of the Department. The personal use of all information recorded from body-worn cameras is prohibited unless authorized by the Chief of Police.

All access and activity on the data storage system is logged and subject to audit at any time. Personnel authorized under this policy may only view data files according to the provisions of this policy or as designated by the Systems Administrator(s), the Chief of Police or authorized designee.

Any contract with a third-party vendor for data storage of recordings from body-worn video cameras must state that all recordings are the property of the Springfield Police Department, not owned by the vendor, and cannot be used by the vendor for any purpose inconsistent with the policies and procedures of the Springfield Police Department.

Recordings from body-worn video cameras shall not be analyzed with facial recognition or other biometric matching technology (ORS 133.741).

XVII RETENTION REQUIREMENTS

All files from body-worn cameras shall be securely stored in accordance with state records retention laws and will be purged after no longer useful for purposes of training, or for use in an investigation or prosecution (including appeals), or for use in resolving a claim or pending litigation, or disciplinary investigation.

All data, images, video and metadata captured by the Department cameras are subject to State statutes and City policies regarding use and records retention. Recordings from body-worn cameras shall be retained for at least 180 days, but no more than 30 months for a recording not related to a court proceeding or ongoing investigation. Recordings that are evidence for an ongoing criminal investigation or court proceeding shall be kept in accordance with current records retention laws.

The retention period begins from the date the body-worn camera recording was labeled or categorized. System Administrators, the Police Digital Evidence Technician, or the recording officer, may label or categorize recordings for retention. Officers will periodically be directed by the System Administrator(s) or designee to label or categorize any video which had not previously been labeled or categorized.

A body-worn camera video evidence retention schedule will be maintained in accordance with Oregon Revised Statutes.

XVIII RECORDS RELEASE/PUBLIC INFORMATION REQUESTS

Any department member who receives a request for records shall route the request to the Digital Evidence Technician or the authorized designee. Such recordings may only be disclosed under the conditions provided under Oregon Revised Statute 192.345 that includes the following guidelines related to BWC recorded data requests:

1. The request must be for an event for which there is public interest.
2. The request must be for an approximate date and time of an incident.
3. The request must be reasonably tailored to include only the material relevant to the incident.
4. All faces must be rendered unidentifiable (blurred) prior to release.

A reasonable attempt will be made by the releasing person or designee to notify any involved employee(s) prior to release of the information.

XIX ANNUAL REVIEW

An evaluation of the Body-Worn Camera program and policy review will be conducted annually by the Investigation Services Division Lieutenant.

Richard L. Lewis
Chief of Police

